

1982 WL 189448 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 28, 1982

\*1 Jeffrey B. Moore  
Executive Director  
South Carolina Sheriff's Association  
421 Zimalcrest Drive  
Columbia, South Carolina 29210

Dear Mr. Moore:

In response to your letter of September 22, 1982, regarding the legal responsibility of sheriffs for county jails and county governments' powers regarding fees charged by the sheriffs, the office of sheriff for each county was created by Article V, Section 30, South Carolina Constitution, but the powers and duties of the office are not set out in the Constitution. Such matters are, therefore, within the legislative power and discretion. 1967 Opinion of the Attorney General No. 2252, p. 59; [Privette v. Grinnell](#), 191 S.C. 376, 4 S.E.2d 305.

Pursuant to this power, the legislature has provided in [South Carolina Code Sections 24-5-10](#) and [24-5-12](#) that the sheriff is custodian of the jail unless he devolves all such powers to the county's governing body. [Code Section 24-5-12](#) provides a statutory vehicle by which a sheriff may devolve all his powers and duties relating to the custody of the county jail to the governing body of the county, provided he has not been defeated in a primary or general election. I believe [Code Section 24-5-12](#) to be what you refer to as the measure passed allowing the transfer of responsibility.

In regard to the county's revision of the sheriff's fee schedule, it would seem that the counties are not empowered to do this. Since sheriffs' fees are not set out in the Constitution, it would fall within the power and discretion of the legislature to set them, which they have done in [Code Section 23-19-10](#). General law provisions such as this regarding sheriffs have not been superseded by either the Municipal and County Employees Grievance Act (Section 8-17-110, et seq., [Code of Laws of South Carolina](#)), nor by the 'Home Rule' legislation ([Section 4-9-30\(7\)](#), [Code of Laws of South Carolina](#)). See, e.g., [Roton v. Sparks](#), 270 S.C. 637, 244 S.E.2d 214 (1978); [Rhodes v. Smith](#), 273 S.C. 13 254 S.E.2d 49 (1979).

As you requested, I am enclosing a copy of Opinion of the Attorney General No. 4216 regarding the control of county councils over sheriffs' fees.

I hope your questions on these matters have been sufficiently answered, but, if not, please contact me.

Sincerely,

John M. Barton  
Assistant Attorney General

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